

An organization composed of agricultural producers whose principal activity is marketing livestock for its members does not qualify for exemption under section 501(c)(5) of the Internal Revenue Code of 1954.

Advice has been requested whether an organization composed of agricultural producers, whose principal activity is marketing livestock for its members, qualifies for exemption under section 501(c)(5) of the Internal Revenue Code of 1954.

The organization was formed as a nonprofit corporation to carry out a livestock improvement program and to sponsor and promote sales of livestock for its members who are owners or operators of farms. The organization's principal activity is marketing livestock as agent for its members at auctions held throughout the year. It furnishes the labor, advertising, bookkeeping services, and physical facilities required for the auctions. A percentage of the sales proceeds is retained for expenses and establishment of a reserve for the future acquisition of land and buildings. The balance is remitted to the members as payment for their livestock.

Section 501(c)(5) of the Code provides for the exemption from Federal income tax of labor, agricultural, or horticultural organizations.

Section 1.501(c)(5)-1 of the Income Tax Regulations provides that the organizations contemplated by section 501(c)(5) of the Code as entitled to exemption from income taxation are those which (1) have no net earnings inuring to the benefit of any member, and (2) have as their objects the betterment of the conditions of those engaged in such pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations.

The sale of members' products with the return to them of the sale proceeds, less expenses and reserves, is neither an object nor an activity within the ambit of the cited sections of the Code and regulations. The principal purpose of the organization is to act as a sales agent for its members. Therefore, the organization does not meet the requirements of section 1.501(c)(5)-1 of the regulations and is not exempt under section 501(c)(5) of the Code.